

# Conducted Electrical Weapons

## 304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the TASER (TM) (COMAR 12.04.05.02.)

## 304.2 POLICY

The TASER is used to control a violent or potentially violent individual. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

## 304.3 ISSUANCE AND CARRYING TASERS

Only members who have successfully completed department approved training may be issued and carry the TASER (COMAR 12.04.05.03(B).)

TASERs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department inventory.

Officers shall only use the TASER and cartridges that have been issued by the Department (COMAR 12.04.05.02(C)(1).) Uniformed officers who have been issued the TASER shall wear the device in an approved holster. Non-uniformed officers may secure the TASER in the driver's compartment of their vehicles.

Members carrying the TASER should perform a spark test prior to every shift outside of the police department. Spark tests are not to be conducted off site of the Police Department property.

When carried while in uniform, officers shall carry the TASER in an approved holster on the side opposite the duty weapon, mounted to the outer vest carrier.

- (a) All TASERs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Officers shall be responsible for ensuring that the issued TASER is properly maintained and in good working order.
- (c) Officers should not hold a firearm and the TASER at the same time.

## 304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the TASER may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not

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required, to display the electrical arc or the laser to gain compliance prior to the application of the TASER. The aiming laser should not be intentionally directed into anyone's eyes.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER in the related report.

#### **304.5 USE OF THE TASER**

The TASER has limitations and restrictions requiring consideration before its use. The TASER should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER is effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

##### **304.5.1 APPLICATION OF THE TASER**

The TASER may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) Where immediate risk to the officer or others is present and the suspect is **actively** resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to actively resist, and reasonably appears to present **immediate** harm to officers, him/herself or others.

Mere flight from a pursuing officer or resistance, without other known circumstances or factors, is not good cause for the use of the TASER to apprehend an individual.

##### **304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

Under the following circumstances, the TASER (CEW) **should not** be used **unless** there are compelling and exigent circumstances that can be clearly articulated:

- (a) When the subject is operating a motor vehicle.
- (b) When the subject is holding a firearm.
- (c) When the subject is obviously pregnant, very young, very old, mentally ill or physically disabled, unless all other less intrusive means to control the situation have been proven ineffective or are impractical.
- (d) In a situation where deadly force is clearly justifiable unless another officer is present and capable of providing deadly force to protect the officers and/or civilians as necessary.
- (e) When the subject is handcuffed or restrained.
- (f) When assisting other law enforcement or security agencies that have already exposed a subject to a chemical irritant or OC spray.
- (g) Because the application of the TASER in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode should be limited to supplementing the probe-mode to complete the circuit, or as a

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distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

A TASER (CEW) **shall not** be used:

- (a) On a subject who does not pose an **IMMEDIATE DANGER** to the safety of themselves, the officer, or others. The U.S. Court for the Fourth Circuit has ruled, "Painful, injurious, serious inflictions of force, like the use of a TASER, do not become reasonable simply because officers have authorization to arrest a subject who is unrestrained. Even noncompliance with police directives and non-violent physical resistance do not necessarily create 'a continuing threat to the officers' safety.'" Meyers v. Baltimore County, 713 F.3d 723, 733-34 (4th Cir. 2013)
- (b) If the subject is only restricting the officers attempt to take them into custody without displaying an **IMMEDIATE DANGER** (i.e., grabbing the steering wheel, holding onto a fixed object to prevent arrest.) "A police officer may only use serious injurious force, like a TASER, when an objectively reasonable officer would conclude that the circumstances present a risk of immediate danger that could be mitigated by the use of force. At bottom, physical resistance is not synonymous with 'risk to immediate danger.'" Armstrong v. Pinehurst, 810 F.3d 892 (4th Cir. 2016.)
- (c) Against a fleeing suspect except when the individual poses an immediate danger to officers or citizens.
- (d) When the officer knows the subject has come into contact with flammable liquids or is in a flammable atmosphere.
- (e) When the subject is in a position where a fall is likely to cause substantial injury or death.
- (f) Punitively for the purposes of coercion, or in an unjustified manner.
- (g) To escort or jab individuals.
- (h) To awaken unconscious or intoxicated individuals.
- (i) When the subject is in a location where he/she could drown.
- (j) By an officer from a moving vehicle.
- (k) Horseplay.

#### 304.5.3 TARGETING CONSIDERATIONS

The preferred targeting areas include the individual's back or front lower-center mass. The head, neck, chest and groin should be avoided when reasonably practicable. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the TASER probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

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#### 304.5.4 MULTIPLE APPLICATIONS OF THE TASER

Officers should apply the TASER for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Officers should not intentionally apply more than one TASER cartridge at a time against a single individual.

If the first application of the TASER appears to be ineffective in gaining control of an individual, the officer should evaluate the situation and consider certain factors before additional applications of the TASER, including:

- (a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.
- (b) Whether the probes are making proper contact.
- (c) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (d) Whether verbal commands, other options or tactics may be more effective.

#### 304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should take appropriate actions to control and restrain the individual to minimize the need for longer or multiple exposures to the TASER. As soon as practicable, officers shall notify a supervisor any time the TASER has been discharged. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

#### 304.5.6 DANGEROUS ANIMALS

The TASER may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

#### 304.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department TASERs while off-duty.

Officers shall ensure that TASERs are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

### **304.6 DOCUMENTATION**

Officers shall document all TASER discharges in the related arrest/crime reports and the TASER report forms. Unintentional discharges, pointing the device at a person, laser activation and arcing the device, other than for testing purposes, will also be documented on the appropriate report form(s.) Notification shall also be made to a supervisor in compliance with the Use of Force Policy.

#### 304.6.1 TASER FORM

Items that shall be included in the TASER report form are:

- (a) The type and brand of TASER and cartridge and cartridge serial number.

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- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The number of TASER activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the TASER was used.
- (f) The type of mode used (probe or drive-stun.)
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Support Services Commander should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Support Services Commander should also conduct audits of data downloads and reconcile TASER Use of Force report forms with recorded activations. TASER information and statistics, with identifying information removed, should periodically be made available to the public.

#### **304.6.2 REPORTS**

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing TASERs.
- (b) Identification of all witnesses.
- (c) Medical care provided to the subject.
- (d) Observations of the subject's physical and physiological actions.
- (e) Any known or suspected drug use, intoxication or other medical problems.

#### **304.7 MEDICAL TREATMENT**

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove TASER probes from a person's body. Used TASER probes shall be treated as a sharp biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER probes or who have been subjected to the electric discharge of the device or who sustained direct exposure of the laser to the eyes shall be examined by paramedics or other qualified medical personnel.

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If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER (see the Medical Aid and Response Policy.)

#### **304.8 SUPERVISOR RESPONSIBILITIES**

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER may be used. A supervisor shall respond to all incidents where the TASER was activated.

A supervisor shall review each incident where a person has been exposed to an activation of the TASER. The device's onboard memory should be downloaded through the data port by a supervisor, Support Services Commander or his/her designee and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

#### **304.9 TRAINING**

Personnel who are authorized to carry the TASER shall be permitted to do so only after successfully completing the initial department-approved training (COMAR 12.04.05.03.) Any personnel who have not carried the TASER as a part of their assignments for a period of six months or more shall be recertified by a qualified TASER instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASERs should occur every year (COMAR 12.04.05.04.) A reassessment of an officer's knowledge and/or practical skills may be required at any time if deemed appropriate by the Support Services Commander. All training and proficiency for TASERs will be documented in the officer's training files.

Command staff, supervisors and investigators should receive TASER training as appropriate for the investigations they conduct and review.

Officers who do not carry TASERs should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Support Services Commander is responsible for ensuring that all members who carry TASERs have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASERs during training could result in injuries and should not be mandatory for certification.

The Support Services Commander should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.

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- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER.
- (h) The requirements established in COMAR 12.04.05.05.

#### 304.9.1 TRAINING CERTIFICATION

The Support Services Commander should ensure certification is made to the Maryland Police Training and Standards Commission (MPTSC,) on forms or in a manner determined by the MPTSC, that officers have successfully completed training requirements (COMAR 12.04.05.02.)